

## **Newfields Zoning Board of Adjustment Meeting**

**February 27, 2013**

**Attendance:** Kent Lawrence, Steve Coes, Judy Hurlbert and Dave Sweet. Absent from the meeting was Cathy Nelson-Smith.

Chairman Lawrence called the meeting to order at 7pm.

He explained that the Board would be considering a request for a continuance of a motion for rehearing filed by John Hayden and a public hearing on Case #13-02-27-01 a request for variance from the setback regulations on property owned by Scott & Leigh Willett on 27 Railroad Ave.

The Board met with Attorney Fran Lane and returned at 7:30 pm. Dave Sweet recused himself from the meeting due to being an abutter.

John Hayden has requested a continuance until March 27, 2013 on his motion for rehearing.

Kent stated that the Board reviewed the request and their original notes from the hearing on January 9, 2013 on the Appeal from Administrative Decision, Case #13-01-09-01.

Steve said the continuance will allow John Hayden extra time to review his notes of findings. John Hayden indicated that he received the draft minutes on January 31 and the notice of decision on February 15.

A motion was made by Steve Coes and seconded by Kent that based on the apparent confusion regarding the release of the ZBA minutes of the January 9, 2013 meeting on Case #13-01-09-01; the Board shall allow the continuation of the hearing on the motion to rehear until March 27, 2013. All were in favor and the motion carried.

Fran noted that other relief was requested in the Hayden letter of request for continuance and he noted the previous motion does nothing more than continue the matter until March.

Kent suggested approving the minutes of the January 9 meeting which was sent out on January 31 to the entire board and John Hayden.

Kent indicated that the minutes were released by February 12, 2013. (It is believed that the minutes were verbally approved by Chairman Lawrence on February 1, 2013) A motion was made by Kent to approve the minutes of the Appeal from Administrative Decision, Case #13-01-09-01 on January 9, 2013. Steve said the concerns raised by John indicated that he felt there were shortcomings of the Board. He wanted to make it clear that in his opinion the minutes were precise in their content. All discussions and all decisions were made in the presence of those attending the hearing. The Board deliberated in public and those that stayed heard it firsthand. He believes the minutes are an accurate representation of what happened at the meeting. Steve seconded the motion. All were in favor and the motion carried to approve the minutes of January 9, 2013.

### **Scott Willett-Case#13-02-27-01-Request for Variance**

Builder Peter Goodrich spoke on behalf of owners Scott & Leigh Willett. They are requesting a variance from Article 3, Schedule 2, setback regulations. The proposed 16' x 16' addition is closer to the back lot line than allowed.

The building inspector denied the building permit for the rear lot line setback. The lot is odd shaped and the house is parallel to the road. The addition will be a bedroom. The builder is prohibited from moving the addition forward because the utilities come in at the front corner of the home. The setback is 20 feet and the addition would be 4 feet within the setback. Peter read the application into the record.

1. Describe the unnecessary hardship-The owners desire to expand and are constricted by the placement of the original foundation of the house. The house is set parallel to the road but the lot is not rectangular creating an issue with the back lot line.
2. How will granting the variance result in substantial justice-The owners have discussed possibly selling but their desire is to invest and remain in Newfields.
3. How will granting the variance be consistent with the spirit and intent of the ordinance-The only desire is to expand a small amount and add value to the house and tax base.
4. How will the variance not result in diminution in value of surrounding properties-the house lot is large enough where the addition would not impact any neighbors.
5. How will the variance not be contrary to public interest-It is a single family home and would only affect this property.

Meredith Goodrich, property owner of 3 River Road said she did not have an issue with the addition but she did have a question about the existing shed. She wanted to know if the addition would be close to the shed which is on the property line. Peter Goodrich indicated on the sketch where the shed was located. A variance was received for the placement of the shed. The addition will be 30-40 feet away from the shed.

Bill Meserve was in attendance on behalf of abutters Terry Cook and Stephen Yevich of 5 River Road. They are concerned with the water lines that go through the Willett property from Railroad Ave to their home. Kent said the builder should contact the water department regarding this issue.

Steve asked why there was a variance for the shed. Kent said that it seems that the location of the shed is a more convenient location rather than in the middle of the lot. The lot is odd shaped. Meredith requested that the owners not store anything behind the shed since it is on the lot line. Meredith has no problem with the addition.

The overall dimension of proposed addition is 16 x 16. Steve asked if the builder entertained the same square footage in a different dimension. Peter said it wouldn't be practical. The farther out you go with the addition the closer you get to the lot line because of the unusual shape of the lot. Kent stated that this is a classic example of an odd shaped lot in the village district.

The comment and testimony session was closed and the Board deliberated, reviewing the five criteria for a variance.

1. Would granting the variance not be contrary to public interest? Yes-4 No-0
2. Could the variance be granted without violating the spirit and intent of the ordinance? Yes-4, No-0
3. Would granting the variance do substantial justice? Yes-4, No-0
4. Could the variance be granted without diminishing the value of abutting properties? Yes-4, No-0

Steve said proving hardship is usually the question he struggles with in granting a variance. The dimension of the addition could be changed but it would still encroach on the back lot line setback. Dave said the hardship has to do with the unusually shaped lot and the fact that setback regulations were adopted well after the lot was created. Village lots predated all of us.

5. Would denial of the variance result in unnecessary hardship to the owners? Yes-4, No-0

Dave Sweet made a motion to grant the variance based on the vote of the five criteria. Kent seconded the motion and all were in favor. The motion carried and the meeting adjourned at 8:00pm.

Kent Lawrence, ZBA Chairman